

UNITED STATES BANKRUPTCY COURT
FOR THE
DISTRICT OF MASSACHUSETTS (SPRINGFIELD)

In re:
Pauline R. Scully
Debtor

Chapter 13
Case No.: 18-31052

**MOTION OF MTGLQ INVESTORS, L.P. FOR RELIEF FROM THE AUTOMATIC STAY
AND CODEBTOR STAY**

MTGLQ Investors, L.P. (“Movant”), a creditor in the above captioned Chapter 13 proceeding, moves this Court for an Order pursuant to 11 U.S.C. §362(d) and §1301(c) for relief from the automatic stay of 11 U.S.C. §362(a) and codebtor stay of 11 U.S.C. §1301(a) so that it may foreclose on a Mortgage which it holds on real property known and numbered as 71 West Street, Granby, MA 01033. In support of its motion, Movant states the following:

1. On November 26, 2007, Pauline R. Scully (“Debtor”) and Kenneth M. Scully (“Codebtor”) executed and delivered a Note (the “Note”, a copy of which is attached hereto as Exhibit “A”) to Castle Point Mortgage Inc. The Note is secured by a Mortgage also dated November 26, 2007 and recorded in the Hampshire County Registry of Deeds in Book 9335 at Page 95 (the “Mortgage”, a copy of which is attached hereto as Exhibit “B”), on real property owned by Debtor and known and numbered as 71 West Street, Granby, MA 01033 (the “Real Property”).
2. Movant is the current holder of the Mortgage by virtue of (3) Assignments of Mortgage recorded in the Hampshire County Registry of Deeds (the “Assignments”, copies of which are attached hereto as Exhibit “C”).
3. There is no other collateral securing the Note.
4. Specialized Loan Services LLC services the loan on the Property referenced in this Motion. In the event the automatic stay in this case is modified, this case dismisses, and/or the Debtor obtains a discharge and a foreclosure action is commenced on the mortgaged property, the foreclosure

will be conducted in the name of Movant or Movant's successor or assignee. Movant, directly or through an agent, has possession of the Note. The Note is either made payable to Movant or has been duly endorsed. Movant is the original mortgagee or beneficiary or the assignee of the Mortgage/Deed of Trust.

5. On December 3, 2018, Debtor filed a petition for relief under Chapter 13 of the United States Bankruptcy Code.

6. As of May 8, 2019, the post-petition delinquency owed by Debtor on the Note is \$3,215.68. Movant estimates that, if a hearing on this motion is held within thirty days of the date of filing, an additional payment will come due and owing.

7. According to Debtors' Schedule A, the fair market value of the Real Property is \$215,370.00.

8. Movant estimates that the liquidation value is no greater than \$215,370.00.

9. Upon information and belief, there are no additional liens or encumbrances on the Real Property.

10. As of May 8, 2019, the total outstanding balance owed on the Note was \$338,694.55

11. The estimated total amount of encumbrances on the Real Property is \$338,694.55

12. According to the Proof of Claim filed on behalf of Movant, the pre-petition arrearage due and owing is \$28,209.35

13. Debtor's Chapter 13 Plan has not been confirmed and provides for direct post-petition payments to Movant.

14. Movant is entitled to relief from the automatic stay for cause pursuant to 11 U.S.C. §362(d)(1) because Debtor has not made payments pursuant to the Note and Mortgage.

15. Movant is entitled to relief from the codebtor stay pursuant to 11 U.S.C. §1301(c) because the proposed Chapter 13 Plan does not pay Movant in full and continuation of the stay will

cause irreparable harm to Movant.

WHEREFORE, Movant moves that the Court enter an Order granting Movant relief from the automatic stay pursuant to 11 U.S.C. §362(d) and codebtor stay pursuant to 11 U.S.C. §1301(c) so that it, and its successors and assigns, may proceed to exercise its rights pursuant to the Note and Mortgage. They may also proceed according to applicable state and federal law and to commence a summary process action against occupants of the Real Property.

MTGLQ Investors, L.P.
By its attorneys,

Date: May 23, 2019

/s/ Joseph Dolben, Esq.
Joseph Dolben, Esq., #673113
Marinosci Law Group, P.C.
275 West Natick Road, Suite 500
Warwick, RI 02886
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CERTIFICATE OF SERVICE

I, Joseph Dolben, Esq., of Marinosci Law Group, P.C., do hereby certify that on May 23, 2019, I served a copy of the Motion for Relief and supporting documents on the attached service list by mailing a copy of same by first class mail, postage prepaid or other method specified on service list.

Signed this 23rd day of May, 2019

/s/ Joseph Dolben, Esq.
Joseph Dolben, Esq., #673113
Marinosci Law Group, P.C.
275 West Natick Road, Suite 500
Warwick, RI 02886
Telephone: (401) 234-9200

VIA ECF

Carrie Naatz, Esq., on behalf of Debtor
Richard King, on behalf of the U.S. Trustee
Denise M. Pappalardo, on behalf of the Trustee
Richard T. Mulligan, Esq., on behalf of Federal National Mortgage Association

VIA US MAIL

Pauline R. Scully
71 West Street
Granby, MA 01033

Kenneth M. Scully
71 West Street
Granby, MA 01033

Town of Granby - Tax Collector
10-B West State Street, Route 202
Granby, MA 01033

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**ORDER RE: MOTION OF MTGLQ INVESTORS, L.P. FOR RELIEF FROM THE
AUTOMATIC STAY AND CODEBTOR STAY**

MTGLQ Investors, L.P. ("Movant"), by and through its attorneys, Marinosci Law Group, P.C., having filed for Relief From Stay regarding real property known and numbered as 71 West Street, Granby, MA 01033 notice having been given and good cause appearing therefore, it is hereby ORDERED that the Motion of Movant for Relief From Stay is allowed and Movant is granted relief from the automatic stay pursuant to 11 U.S.C. §362(d) and codebtor stay pursuant to 11 U.S.C. §1301(c) so that it, and its successors and assigns, may proceed to exercise its rights pursuant to the Note and Mortgage and applicable state and federal law and to commence a summary process action against occupants of that property. This Order shall be binding and effective despite any conversion of this bankruptcy case to a case under any other chapter of Title 11 of the United States Bankruptcy Code.

At _____ this _____ day of _____, 2019

U.S. BANKRUPTCY JUDGE